

CAMPAGNOLO S.R.L.,
Plaintiff,

v.

FULL SPEED AHEAD, INC.,
Defendant.

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CASE NO. C08-1372 RSM

ORDER GRANTING PLAINTIFF'S
MOTION FOR LEAVE TO AMEND

FRCP 15(a)(2) provides that where a party does not amend its pleading within the circumstances provided under FRCP 15(a)(1), “a party may amend its pleading only with . . . the court’s leave. The court should freely give leave when justice so requires.”

1 FRCP 15(a)(2). It is well settled that the underlying purpose of Rule 15(a) is “to facilitate
2 decisions on the merits, rather than on technicalities or pleadings.” *James v. Piller*, 269 F.3d
3 1124, 1126 (9th Cir. 2001) (citation omitted). A district court may, however, deny leave to
4 amend if it finds the existence of “bad faith or dilatory motive on the part of the movant,
5 repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to
6 the opposing party by virtue of allowance of the amendment, [or] futility of amendment.”
7 *Zucco Partners, LLC v. Digimarc. Corp.*, 552 F.3d 981, 1007 (9th Cir. 2009) (internal
8 quotations and citations omitted).

9 Here, the Court finds that none of the afore-mentioned reasons exist, and granting
10 Campagnolo’s motion for leave is appropriate for two primary reasons. First, all potential
11 parties with an interest in the litigation should be before the Court. FSA cannot deny that
12 Tien Hsin has made representations in a separate proceeding that FSA is a wholly owned
13 subsidiary of Tien Hsin. *See Tien Hsin Indus. Co. Ltd., et al. v. Cane Creek Cycling*
14 *Components, et al.*, C07-1272 TSZ. FSA also cannot deny the representations it has already
15 made in this case. These include the facts that Tien Hsin is owned by Douglas Chiang and his
16 wife, Hsia-Shi Wang, and that FSA is separately owned by Ms. Wang. Therefore it appears
17 that there is a commonality of interests between the two corporations that justify Tien Hsin’s
18 inclusion into the case at this stage of the proceedings. FSA’s arguments that Campagnolo
19 fails to establish any agency or alter-ego theories in its motion for leave are premature.

20 Second, the case is still at its infancy stages. Although the complaint was filed
21 approximately one year ago, no meaningful discovery has taken place because several pre-
22 answer motions were filed, and the case was transferred from the Eastern District of
23 Pennsylvania. In addition, Campagnolo moved for partial summary judgment following the
24 case’s transfer to this Court, further delaying the commencement of any discovery. In fact,
25 the Court only recently issued its initial scheduling order on March 11, 2009. Therefore
26 FSA’s contention that it will suffer prejudice at this stage of the proceedings is unavailing.
27 The underlying purpose of Rule 15(a) to facilitate a decision on the merits is served by
28 allowing Campagnolo leave to amend.

1 The Court finds it worthwhile to note that counsel for Campagnolo has consistently
2 failed to follow the rules of the Court. Counsel has repeatedly failed to note motions in
3 accordance with the Local Rules (*see* Dkts. #58, #60, and #62), filed overlength motions
4 without permission from the Court (Dkt. #58), and impermissibly filed a response to a
5 surreply (Dkt. #76). Counsel is on notice that failure to conform to the rules of the Court in
6 the future may result in sanctions.

7 Having reviewed the relevant pleadings, the declarations and exhibits attached thereto,
8 and the remainder of the record, the Court hereby finds and ORDERS:

9 (1) Plaintiff's Motion for Leave (Dkt. #62) is GRANTED. Plaintiff is directed to file
10 its second amended complaint within seven (7) calendar days from the date of this Order.

11 (2) The Clerk is directed to forward a copy of this Order to all counsel of record.

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13 DATED this 23rd day of April, 2009.

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17 RICARDO S. MARTINEZ
18 UNITED STATES DISTRICT JUDGE
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